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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDGAR W. TUTTLE; ERIC BRAUN; THE BRAUN FAMILY TRUST by its co-trustee ERIC BRAUN; and WENDY MEG SIEGEL, on behalf of themselves and all others similarly situated,

Case No.: 10-CV-03588 (WHA)

**PARTIES' JOINT PRÉCIS SEEKING
RELIEF FROM THE MARCH 23, 2012
DEADLINE TO DISSEMINATE CLASS
NOTICE AND TO FILE A MOTION
FOR PRELIMINARY APPROVAL OF
THE PARTIES' MEDIATED
SETTLEMENT**

Plaintiffs.

V.

SKY BELL ASSET MANAGEMENT, LLC
et al.

Defendants.

1 Pursuant to the Second Amended Case Management Order (Dkt. No. 69), Plaintiffs and
2 Defendant Rothstein Kass & Company, P.C. jointly submit this précis seeking relief from the
3 March 23, 2012 deadline to disseminate the class notice and for leave to file a motion for
4 preliminary approval of the parties' mediated settlement.

5 Following class certification and appointment of Class Counsel (Dkt. No. 317), the
6 parties determined that the case was ripe for exploring possible settlement scenarios with the
7 assistance of a skilled mediator. Cognizant of the Court's Memorandum Opinion Regarding
8 Factors to be Evaluated for any Proposed Class Settlement (Dkt. No. 66), the parties agreed that
9 all such discussions should be conducted through the Hon. Gary L. Taylor (Ret.) of JAMS.
10 Judge Taylor has nearly 20 years of judicial service, including 15 years as a United States
11 District Court Judge for the Central District of California.

12 The parties submitted to Judge Taylor (but did not exchange) confidential mediation
13 statements. This was followed by a day-long mediation session before Judge Taylor. The
14 parties did not immediately reach an agreement, although Judge Taylor determined that it would
15 be worthwhile to continue discussions, with Judge Taylor serving as a conduit for all such
16 communications. Following the mediation, each side had numerous communications with Judge
17 Taylor. Ultimately, both sides agreed to a mediator's proposal made by Judge Taylor.

18 The parties are drafting a settlement agreement reflecting their acceptance of the
19 mediator's proposal made by Judge Taylor and fully documenting the settlement terms. The
20 parties are diligently working to finalize the settlement documentation and to file a motion for
21 preliminary approval of the settlement by April 2, 2012. Accordingly, the parties respectfully
22 request that the Court grant leave to file a motion for preliminary approval of the settlement.

23 In light of the parties' acceptance of the mediator's proposal, Plaintiffs also request relief
24 from the March 23, 2012 deadline to disseminate the Class Notice. This request is made to avoid
25 unnecessary expense, and potential confusion that would result if preliminary approval of the
26 mediated settlement is granted and Plaintiffs are required to disseminate a second class notice
27 informing Class Members of the proposed settlement. Deferring the dissemination of Class
28 Notice will avoid requiring Class Members to choose whether to remain in the Class or to opt out

1 without full knowledge of the proposed settlement that has been agreed to in principle.

2 Dated: March 19, 2012

GOLD BENNETT CERA & SIDENER LLP
– and –

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14 Dated: March 19, 2012

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